



PUBLIC NOTICE

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REMINDER REGARDING OBLIGATIONS TO MAKE TELEVISED EMERGENCY INFORMATION ACCESSIBLE TO VIEWERS WITH DISABILITIES

MB Docket No. 12-107

The Federal Communications Commission (FCC or Commission) issues this Public Notice to remind video programming distributors (VPDs)—including broadcasters, cable operators, satellite television services, and “any other distributor of video programming for residential reception that delivers such programming directly to the home and is subject to the jurisdiction of the Commission”¹—of their obligation under section 79.2 of the Commission’s rules to make televised emergency information accessible to persons with disabilities.² This Public Notice also provides information for consumers on how to file complaints for noncompliance with this obligation.³

Background. Under section 79.2, emergency information is defined as “[i]nformation, about a current emergency, that is intended to further the protection of life, health, safety, and property, *i.e.*, critical details regarding the emergency and how to respond to the emergency.”⁴ Examples of the types of emergencies covered by the rule include pandemics, tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gases, widespread power failures, industrial explosions, civil disorders, school closings and changes in school bus schedules resulting from such conditions, and warnings and watches of impending changes in weather.⁵ Critical details include, but are not limited to, “specific details regarding the areas that will be affected by the emergency, evacuation orders, detailed descriptions of areas to be evacuated, specific evacuation routes,

¹ 47 CFR § 79.1(a)(11) (defining “video programming distributor”).

² See 47 CFR § 79.2. Because of the importance of this issue, we have released similar Public Notices in the past. See, e.g., *Reminder Regarding Obligations to Make Televised Emergency Information Accessible to Viewers with Disabilities*, Public Notice, 34 FCC Rcd 7842 (CGB 2019). Unlike the closed captioning obligations contained in section 79.1 of the rules, there are no exemptions to these televised emergency information accessibility requirements. Additionally, VPDs may have a separate obligation to meet accessibility requirements when transmitting Emergency Alert System (EAS) messages on television. See 47 CFR § 11.51(d), (g)(3), (h)(4), (j)(2); see also Public Safety and Homeland Security Bureau, Federal Communications Commission, *EAS FAQ Accessibility* (Oct. 19, 2019), <https://www.fcc.gov/eas-faq-accessibility>.

³ See 47 CFR § 79.2(c).

⁴ 47 CFR § 79.2(a)(2).

⁵ See *id.*; see also Consumer and Governmental Affairs Bureau, Federal Communications Commission, *Accessibility to Emergency Information on Television* (Mar. 25, 2020), <https://www.fcc.gov/consumers/guides/accessibility-emergency-information-television>.

approved shelters or the way to take shelter in one's home, instructions on how to secure personal property, road closures, and how to obtain relief assistance.”⁶

While the rule applies to emergency information primarily intended for distribution to an audience in the geographic area in which the emergency is occurring, it also may apply to emergency information provided during programming that is distributed to an area outside the area immediately affected by an emergency. This is especially likely to happen when a large-scale disaster primarily affects one region but has an impact on outlying areas.⁷ Furthermore, details about an ongoing emergency must continue to be accessible to individuals with disabilities in the aftermath of an emergency to ensure that people living in the affected communities have up-to-date information, when needed, to effectively respond to the event in a manner that can protect their life, health, safety, and property. Over the past year, deadly tornadoes in Tennessee, earthquakes in Puerto Rico, and the spread of the COVID-19 pandemic illustrate not only the variety, scale, and duration of emergency events that could be covered by this rule, but also the importance of ensuring emergency information related to these events is accessible to affected individuals with disabilities.⁸

Individuals who are Blind or Visually Impaired. To ensure access to emergency information by persons who are blind or visually impaired, emergency information provided in the video portion of a regularly scheduled newscast or a newscast that interrupts regular programming must be made accessible by aurally describing the emergency information in the main audio portion of the programming.⁹ When emergency information is conveyed visually during programming other than newscasts (e.g., through “crawling” or “scrolling” text during regular programming), an aural tone on the main audio stream must accompany the visual information.¹⁰ Additionally, such visual emergency information must be conveyed aurally in full at least twice through a secondary audio stream, preceded by an aural tone on that stream.¹¹ Aural emergency information must supersede all other programming on the secondary audio stream, including video description, foreign language translation, or duplication of the main audio stream.¹² Finally, multichannel video programming distributors (MVPDs) must ensure that any application or plug-in that they provide to consumers to access linear programming on second screen devices (e.g., tablets, smartphones, laptops, and similar devices) over their networks as part of their MVPD services is capable

⁶ Note to 47 CFR § 79.2(a)(2).

⁷ For instance, wildfires in Nevada and southwestern Utah in July 2020 have brought smoky conditions over much of Utah, raising concerns about air quality and dangerous smoke inhalation, especially during the COVID-19 pandemic. See Terrell Wilkins, The Spectrum, *Heavy Smoke From Wildfires Raises Concern About Air Quality in Southern Utah* (Jul. 15, 2020), <https://www.thespectrum.com/story/news/2020/07/15/air-quality-southern-utah-smoke-veyo-turkey-farm-road-wildfires/5443191002/>.

⁸ See Yihyun Jeong, USA Today, *Minute by Minute: How a Deadly Tornado Cut a Devastating Path Across Tennessee* (Mar. 5, 2020), <https://www.usatoday.com/story/news/nation/2020/03/05/tennessee-tornado-how-deadly-storm-unfolded-minute-minute/4960309002/> (during early spring of 2020, a series of powerful tornadoes killed 25 people and caused miles of damages in Tennessee); Frances Robles, The New York Times, *Months After Puerto Rico Earthquakes, Thousands Are Still Living Outside* (Mar. 1, 2020), <https://www.nytimes.com/2020/03/01/us/puerto-rico-earthquakes-fema.html> (a 6.4 magnitude earthquake hit the island on January 7, 2020, with dozens of aftershocks following, culminating in thousands of homes being damaged); Centers for Disease Control and Prevention, *Cases in the U.S.*, <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (reporting on numbers of COVID-19 cases in the United States).

⁹ 47 CFR § 79.2(b)(2)(i).

¹⁰ See 47 CFR § 79.2(b)(2)(ii).

¹¹ *Id.*

¹² 47 CFR § 79.2(b)(5).

of passing through an aural representation of emergency information (including the aural tone) on a secondary audio stream.¹³

Individuals who are Deaf or Hard of Hearing. Emergency information provided in the audio portion of programming also must be accessible to persons who are deaf or hard of hearing through closed captioning or other methods of visual presentation, including open captioning, crawls or scrolls that appear on the screen.¹⁴ Visual presentation of emergency information may not block any closed captioning, and closed captioning may not block any emergency information provided by crawls, scrolls, or other visual means.¹⁵

VPDs that are not permitted to rely on the electronic newsroom technique (ENT) to caption live programming must provide closed captioning for emergency information presented during regularly scheduled newscasts and newscasts that interrupt regular programming.¹⁶ VPDs should take steps to establish internal protocols to obtain closed captioning resources quickly in the event of an emergency.¹⁷ We also emphasize that, when closed captioning services are not provided, VPDs must make emergency information accessible by some other visual presentation method.¹⁸ Likewise, VPDs that are permitted to use the ENT method to create captions for their live programming are reminded that, because the ENT method does not automatically caption non-scripted news, they must make the emergency information accessible by some other form of visual presentation.¹⁹

¹³ 47 CFR § 79.2(b)(6). See *Consumer & Governmental Affairs Bureau Reminds MVPDs of July 10, 2017 Deadline to Pass Through Audible Emergency Information During Linear Programming on Second Screen Devices*, MB Docket No. 12-107, Public Notice, 32 FCC Rcd 4773 (CGB 2017).

¹⁴ 47 CFR § 79.2(b)(1).

¹⁵ See 47 CFR § 79.2(b)(4). We note that some state and local government officials provide American Sign Language (ASL) interpreter services during their televised emergency announcements and press conferences. To the extent this service is provided, we encourage VPDs and video programmers to ensure that the interpreter is visible on the television screen at all times in order to benefit viewers who use ASL. See, e.g., National Council on Disability, *Effective Communications for People with Disabilities: Before, During, and After Emergencies*, (May 27, 2014), <https://ncd.gov/publications/2014/05272014/>; National Association of the Deaf, *Position Statement on Accessible Emergency Management for Deaf and Hard of Hearing People*, <https://www.nad.org/about-us/position-statements/position-statement-on-accessible-emergency-management-for-deaf-and-hard-of-hearing-people/> (last visited July 20, 2020); Dylan Goforth, *The Frontier, American Sign Language Interpreters Shine During COVID-19 Press Conferences*, (April 1, 2020), <https://www.readfrontier.org/stories/american-sign-language-interpreters-shine-during-covid-19-press-conferences/> (discussing the importance of the sign language interpreter at COVID-19 briefings).

¹⁶ ENT is a technique that converts the dialogue included on a teleprompter script into captions. For purposes of determining compliance with section 79.1, the Commission's rules permit live programming to be captioned using ENT, with the exception of live programming exhibited by the major national broadcast television networks (i.e., ABC, CBS, Fox, and NBC), affiliates of these networks in the top 25 television markets, and national non-broadcast networks serving at least 50% of all homes subscribing to multichannel video programming services. See 47 CFR § 79.1(e)(3).

¹⁷ See, e.g., *Obligation of Video Programming Distributors to Make Emergency Information Accessible to Persons with Hearing Disabilities Using Closed Captioning*, Public Notice, 21 FCC Rcd 15084, 15084-85 (CGB 2006) (suggesting steps that include contracting with services that can generate closed captions on very short notice, posting notices in the newsroom reminding staff to contact the designated closed captioning service at the onset of an emergency, and labeling speed-dial buttons on newsroom telephones to connect to the captioning service).

¹⁸ *Id.* at 21 FCC Rcd 15085-86; see also 47 CFR § 79.2(b)(1).

¹⁹ See 47 CFR § 79.2(b)(1); *Closed Captioning and Video Description of Video Programming; Implementation of Section 305 of the Telecommunications Act of 1996; Accessibility of Emergency Programming*, MM Docket No. 95-176, Second Report and Order, 15 FCC Rcd 6615, 6623-24, para. 16 (2000).

Individuals with Cognitive Disabilities. While not required by the Commission's rules, VPDs and video programmers are encouraged to make emergency information accessible to people with cognitive disabilities, such as through using plain language and pictorial information.²⁰

Consumer Complaints and Enforcement

The Commission will continue to monitor complaints alleging violations of the emergency information rules and will review them for possible enforcement action. Consumers with a complaint or request for assistance regarding the inaccessibility of emergency information may reach the FCC using the following methods:

- Online Complaint Form: www.fcc.gov/accessibilitycomplaints
- Phone: 1-888-225-5322 (voice); 1-844-432-2275 (videophone for ASL users)
- E-Mail: dro@fcc.gov
- U.S. Mail:
Federal Communications Commission,
Consumer and Governmental Affairs Bureau
Disability Rights Office
445 12th Street, SW
Washington, DC 20554

To request this Public Notice or any other materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Bureau at 202-418-0530 (voice).

General information about access to televised emergency information is available online at: <https://www.fcc.gov/general/access-emergency-information-television>. To view this information via an ASL video: www.fcc.gov/TVEmergencyAccessASL. For specific questions, contact: Debra Patkin, Attorney Advisor, Disability Rights Office, 202-870-5226, e-mail Debra.Patkin@fcc.gov.

²⁰ See *Reminder Regarding Obligations to Make Televised Emergency Information Accessible to Viewers Who Are Deaf, Hard of Hearing, Blind, or Visually Impaired and Recommendations to Improve Access for Viewers with Cognitive Disabilities*, Public Notice, 31 FCC Rcd 10906, 10909-10 (CGB 2016); see also Consumer and Governmental Affairs Bureau, Federal Communications Commission, *Individuals with Cognitive Disabilities: Barriers to and Solutions for Accessible Information and Communication Technologies* (2016), <https://docs.fcc.gov/public/attachments/DOC-341628A1.pdf> (FCC White Paper containing best practices for making communications accessible to people with cognitive disabilities).